



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्रतिगठन से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 52] नई दिल्ली, शनिवार, अक्टूबर 22, 1982/अश्विन 30, 1904

No. 52] NEW DELHI, FRIDAY, OCTOBER 22, 1982/ASVINA 30, 1904

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 22nd
October, 1982 —

Bill No XXIX of 1982

A Bill further to amend the Constitution of India

Enacted by Parliament in the Thirty-third Year of the Republic
of India as follows —

1. This Act may be called the Constitution (Amendment) Act, 1982.

Short
title

2 After article 343 of the Constitution the following new article shall
be inserted, namely —

Insertion
of new
article
343A

“343A. (1) All languages specified in the Eighth Schedule shall
be treated as National languages and shall receive equal recognition
and support for their promotion

National
languages
of the
Union

(2) Any other language which is declared as mother-tongue
by at least one per cent of the people of the country in a decennial
census and which is recognised as a literary language by the Sahitya
Akademi shall, upon the publication of the communication of the
said Akademi in the official Gazette of the Union about such recogni-
tion stand specified in the Eighth Schedule”

STATEMENT OF OBJECTS AND REASONS

The Eighth Schedule originally included only fourteen languages which included Sanskrit, a classical language which is not the mother-tongue of any sizeable section of the national community. Later, by an amendment, Sindhi was added.

Since the commencement of the Constitution persistent demands have been made for the inclusion of various languages which are spoken by a substantial number of people; have been declared as mother-tongue during the Census; have a rich literature; have been recognised as literary languages by the Sahitya Akademi, and whose writers have qualified for the membership of the General Council of the Akademi as well as for annual awards. These languages include Dogri, Konkani, Maithili and Nepali. There are other languages as well as large number of dialects which have been claimed as mother-tongue by millions of people and which are bound to come into their own in due course leading to similar demands for inclusion in the family of national languages.

All languages in the Eighth Schedule are treated as national languages though not all of them are the official languages of any State or the Union but they all receive State patronage for their development.

Unfortunately, the Constitution does not treat the languages as dynamic and, therefore, it does not lay down any procedure for recognition of other languages as national or "Scheduled Language".

The Bill proposes that experts rather than laymen, academicians or politicians should decide when a language has come of age and deserves to be included in the Eighth Schedule. The Sahitya Akademi could be the appropriate body of experts and academicians for the purpose.

The immediate effect of the Bill would be to include above four languages in the Eighth Schedule.

Hence this Bill.

SYED SHAHABUDDIN

II

BILL No. XXXI OF 1982

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1982.

Short
title.

2. In article 16 of the Constitution, after clause (3) the following clause shall be inserted namely:—

Amend-
ment
of
article
16.

“(3A) Nothing in this article shall prevent the State from making any law defining the classes of persons who are, or shall be, permanent residents of the State or conferring on such permanent residents any special rights and privileges or imposing any restrictions upon other persons in respect of,—

(a) employment under a State Government, or

(b) acquisition of immovable property in a State, or

(c) settlement in a State,

and no such law hereafter enacted by the legislature of the State shall be deemed to be void on the ground that it is inconsistent with, or takes away, or abridges any of the rights conferred on a citizen by this Part.

Amend-
ment of
article
19.

3. In article 19 of the Constitution, for clause (5), the following clause shall be substituted, namely:—

“(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law or shall prevent the State from making any law imposing reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or the unity and integrity of India or for the protection of the interests of any Scheduled Tribe or for the protection and preservation of political, cultural and linguistic identity of a State having a permanent and historic background of language and culture.”

Amend-
ment of
article
30.

4. In article 30 of the Constitution, to clause (1) the following proviso shall be added, namely:—

Provided that the regional language shall be taught compulsorily in all educational institutions established and maintained by minorities based on religion and language in a State.

Omissi-
on
of
article
347.

5. Article 347 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The framers of the Constitution of India opted for a federal type of Constitution realising the multi-national character of India. India has, therefore, been described as "a Union of State". The State have been reorganised, among others, on the basis of permanent historic identity of language and culture. The political, linguistic and cultural identities of all the federated States should therefore be safeguarded and all the States should be brought at par if the unity and integrity of the country is to be preserved and strengthened.

The people of Assam and other States in the North-Eastern region have got the apprehension that their identities will be lost as a result of un-restricted migration from other States of the country and infiltration from the neighbouring Bangladesh. The example of Sikkim and Tripura, where the indigenous people have been reduced to minority by such migration, is fresh in their minds. It is this apprehension that is at the root of the massive and longdrawn mass movement in Assam on Foreign Nationals issue. In fact the Assam movement has focussed the attention of the Nation to a very vital issue of preservation of the cultural and linguistic identities of the smaller nationalities of the smaller States.

Multiplicity of identities is not a threat to the unity of the country, rather it reflects the vast complexity and diversity of India. Unity in diversity is the basic feature of our country. If this pragmatic concept of Indian Nationalism is lost sight of, then the unity and integrity of the country cannot be maintained. Pakistan had to pay heavy penalty of disintegration for ignoring regional hopes and aspirations. Our duty is to reconcile the regional identities with the National Unity within the frame work of the Constitution.

It is, therefore, high time that we examine the provisions of the Constitution and make suitable amendments in order to safeguard the political, linguistic and cultural identity of the people with permanent historic background in the State.

Hence this Bill.

BISWA GOSWAMI

BILL No. XXVII OF 1982

A Bill to provide for the application of the principles of secularism in Government and administration.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short
title
and
extent.

1. (1) This Act may be called the Promotion of Secularism Act, 1982.
- (2) It extends to the whole of India.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Force”, “fraud” and “inducement” shall have the meanings assigned to them in the Indian Penal Code;

(b) “religion” means the faith which a person professes;

(c) “secularism” means the separation of the State and religion as well as non-discrimination by the State among citizens on the basis of religion.

Right to
profess
and
practise
religion.

3. Every citizen shall have the right to profess and practise the religion of his choice or follow the faith or form of worship as he deems fit and shall have the right peacefully to propagate his religion, faith or form of worship in order to persuade others to join his religion, faith or form of worship.

45 of 1860.

4. The State shall not interfere with the freedom of conscience and the right to freely profess, practise and propagate religion, faith or form of worship and shall protect every citizen from interference by others provided that in case of allegation of use of force, fraud or inducement or of physical threat or fear of such threat in the matter of exercise of such freedom the provisions of the Indian Penal Code 1860 shall apply on complaint being filed by the aggrieved citizen.

State not to interfere in religious matters.

40 of 1971.

5. (1) The State shall allot public land for construction of places of worship, graveyards, cemeteries, seminaries, and institutions for religious education on equitable terms and shall not cause any property, where religious worship is held or any religious rite is performed, to be removed, altered or changed in any manner except with the written consent of the affected people:

Allotment of land by State for religious purposes and removal of unauthorised occupation of religious places.

Provided that where the public purpose requires such removal, alteration or change, the State shall notify it in the Official Gazette and may acquire it after giving due opportunity to the affected people to be heard and after providing alternative place for practice of religious worship or religious rite, as the case may be.

(2) The provisions and procedures contained in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 shall apply in relation to the unauthorised occupation of the religious places as they apply in relation to the unauthorised occupation of the public premises.

6. The State shall not permit any religious worship, or right or ritual or ceremony or symbol at any State function or on official occasion in any public premises.

State not to permit official religious functions.

7. The State shall not incur any expenditure on the visit of public functionaries to religious shrines or places of pilgrimage, except in course of public duty.

State not to incur expenditure.

8. (1) There shall be appointed a Commission every five years to review the representation of various religious groups in Government services, employment in the public sector and in access to higher education and to suggest remedial measures for avoiding over or under-representation of any religious group in such service or employment or education.

State to appoint a Commission to review Secularism.

(2) The Commission shall consist of three Members of whom the Chairman shall be a person who has been, or is eligible to serve as, a Judge of a High Court or has been a Secretary to the Government of India.

9. The State shall, as far as possible, ensure balance among all religious groups in all its discretionary appointments.

State to ensure balance among religious groups.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

STATEMENT OF OBJECTS AND REASONS

The Constitution provides for freedom of religion and conscience but there is no law under which a citizen can secure State protection for exercising this right. Over a period of time secularism has come to be identified with a policy of equi-distance towards all religions. This has meant in practice that religious rites are being performed on public occasions and religious shrines are being constructed in public premises.

Besides this religious minorities continue to feel discriminated against in matters of public employment and access to higher education. Short of reservation on the basis of religion, remedial measures require to be taken by the State to remove any consistent pattern of over or under representations of any religious community.

Further, there are so many instances of public land being allotted and places of worship being refused construction or demolished or desecrated on a selective basis. All this calls for a Bill to translate the constitutional guarantee into a legal right and define rights and duties which should be legally enforceable.

Hence this Bill.

SYED SHAHABUDDIN

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the appointment of a Commission, consisting of three members, every five years to review the position of various religious groups. The setting up of the Commission involves a non-recurring expenditure of about Rs. fifty thousand and a recurring annual expenditure of, about Rs. one lakh.

(SMT.) K. K. CHOPRA,
for Secretary-General.